

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEVON MATTHEWS,

Plaintiff,

-against-

FREDDIE MILEY, et al.,

Defendants.

7:24-CV-7902 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff Devon Matthews, who is appearing *pro se* and is currently incarcerated in the Fishkill Correctional Facility, brings this action asserting claims under 42 U.S.C. § 1983, seeking damages. He sues the following individuals, all of whom appear to be assigned to the Sing Sing Correctional Facility: (1) Correctional Officer Freddie Miley; (2) Correctional Officer Deveron Aitken; (3) Correctional Officer Kyle E. Barnes; and (4) Correctional Sergeant Felix Bermejo.

By order dated October 23, 2024, the court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹ The Court: (1) directs service on the defendants; and (2) directs the defendants to comply with Local Civil Rule 33.2.

DISCUSSION

A. Service on the defendants

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the United States Marshals Service ("USMS") to effect service.²

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any

Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service of the complaint on the defendants, the Clerk of Court is instructed to fill out a USMS Process Receipt and Return form (“USM-285 forms”) for each of the defendants. The Clerk of Court is further instructed to issue a summons for each of the defendants, and deliver to the USMS all the paperwork necessary for the USMS to effect service of a summons and the complaint on each of the defendants.

If the summonses and the complaint are not served on the defendants within 90 days after the date that the summonses for the defendants have issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires particular defendants in certain types of prisoner actions to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the court’s website under “Forms” and are titled [“Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.”](#) Within 120

summonses be issued. The Court therefore extends the time to serve until 90 days after the date that any summonses issue.

days of the date of service, the defendants must serve responses to those standard discovery requests. In their responses, those defendants must quote each request verbatim.³

CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs service on: (1) Correctional Officer Freddie Miley;
(2) Correctional Officer Deveron Aitken; (3) Correctional Officer Kyle E. Barnes; and
(4) Correctional Sergeant Felix Bermejo.

The Court further directs the Clerk of Court to: (1) issue summonses for those defendants; (2) complete USM-285 forms with the service addresses for those defendants, and;
(3) deliver all documents necessary to effect service of the summonses and the complaint on those defendants to the USMS.

Within 120 days of the date of service, those defendants must comply with Local Civil Rule 33.2.

SO ORDERED.

Dated: November 25, 2024
White Plains, New York



CATHY SEIBEL
United States District Judge

³ If Plaintiff would like copies of those discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the court's Pro Se Intake Unit.

DEFENDANTS AND SERVICE ADDRESSES

1. Correctional Officer Freddie Miley
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
2. Correctional Officer Deveron Aitken
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
3. Correctional Officer Kyle E. Barnes
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
4. Correctional Sergeant Felix Bermejo
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442